

## CITY COUNCIL PROCEEDINGS

Wednesday, November 3, 2010

### 1. CALL TO ORDER AND ROLL CALL

Mayor Osborne called the regular November 3, 2010 council meeting to order at 6:08 p.m. in the council chambers.

Those present were: Mayor Osborne, Deputy Mayor Wilson and Council Members Ageton, Appelbaum, Becker, Cowles, Gray, Karakehian and Morzel.

### 2. PUBLIC PARTICIPATION and COUNCIL/STAFF RESPONSE – 6:09 p.m.

1. Ken Miller, Board facilitator for BOHO, thanked founding director Jim Budd, Karen Rahn, and Council for the funding contribution and its support in serving the homeless community in Boulder.
2. Michael Fitzgerald commented that he had utilized BOHO for the last several years and was thankful for the service they provide. His internship at The Carriage House was giving him opportunities to help where he could.
3. Seth Brigham spoke in support of BOHO and suggested Council fully fund the emergency shelter. He also took exception to the 'Rules of Speaking' poster that was posted in the Council Chambers.
4. Rob Smoke spoke to the medical marijuana income the city was receiving and suggested if the amounts coming in were over the administrative costs, the excess should go to other health care organizations that are in need.
5. Terri Sternberg thanked council for its funding for BOHO and spoke to her own exceptional experience at the warming shelter.
6. Alexandra Brower a CU student studying architecture spoke to the 'Growing Up Boulder' initiative and indicated that CU was partnering with the city to establish a baseline to determine how youth friendly Boulder was. They have a three minute survey online and asked Council to help get the word out to the community. She asked if Council would link to the survey from the city's web site. Mayor Osborne asked her to provide any interim survey results at Council's November 30 study session on the youth environment. There was currently no deadline on the survey.
7. Kristen Marshall interstate group for economic justice, speaking on behalf of BOHO, asked council to continue to reach out and complete the circle that is community.
8. Spense Havlick, Chair of the Transportation Advisory Board, provided council with the 21 year anniversary report (Transportation Master Plan). He indicated that TAB Vice Chair David Driscoll would be available for Council questions at the November 9 study session. He also complimented Transportation department staff.
9. Carl Worthington, Board member with the Boulder History Museum, spoke to the idea of putting together a major cultural complex as a part of the South of Downtown Area plans and looked forward to participating in the process.
10. Carolyn Bninski with the Rocky Mountain Peace and Justice Center spoke in support of BOHO and thanked council for supporting the program with funding. She asked Council to please stay with them throughout the winter months and help if it could.

11. Sean Maher, Executive Director of Downtown Boulder, Inc., spoke to the South of Downtown Area item later in the agenda. He asked council the following: 1) look at the entire district from 9<sup>th</sup> to 16<sup>th</sup> and Canyon to Arapahoe, 2) consider the impacts on property owners (i.e. too restrictive or expensive), 3) the downtown was already an asset, minimize car trips, and 4) existing zoning requirements would be enforced during the process, it was important for property owners to have a set of dependable guidelines. He also thanked staff and Council for all their hours on the project.
12. Nolan Rosall, Chair of the Public Policy Committee for the DBI, also spoke to the South of Downtown Area plan and asked Council to make sure the long term items didn't get dropped off the list after the short term items were completed.
13. Ronald Chase, recently homeless due to an injury, spoke in support of BOHO and thanked Council for supporting their efforts.
14. Al Gunter spoke to the tree ordinance and asked the council that noxious trees not require a permit (such as Russian olive trees). He also commented it was unlikely people would want to get a permit to prune trees on rental properties. He suggested the homeowner requirements should be lessened.
15. Jyotsna Raj spoke on behalf of BOHO and thanked Council for its support. She suggested Council keep an eye on the organization to ensure it remains an available resource for the community.
16. Morey Bean a member of the Urban Land Institute's Boulder Program Committee, invited Council to attend the first of three forums at the New Carillon retirement center. The event was on Friday, November 19 from 7:30 a.m. – 10 p.m. The other two dates had not yet been established.
17. Susan Douglass raised concern about the West Trail Study Area and advocated for ongoing conservation on Boulder's mountain backdrop lands. She commented that mountain biking was not an equal use as hiking and protecting natural resources should be a priority.

City Manager Response: None - 6:49 p.m.

City Attorney Response: - None.

City Council Response:

Deputy Mayor Wilson indicated the tree ordinance would be addressed later in the meeting and should resolve Mr. Gunter's concerns.

#### **Dome Fire Update - 6:50 p.m.**

Fire Chief Larry Donner provided a brief update of the Dome Fire and an overview of the various resources that were called in to assist. Portions of western Boulder were evacuated and lifted within 24 hours. He considered the fire a success as it was only 84 acres and there were no deaths or structures destroyed. He provided council with a map showing where access to the burn area would be closed. He reminded the public that it was still extremely dry and there was a high fire danger.

Deputy Mayor Wilson asked if there was information about how the fire had started. Chief Donner responded that it was still under investigation, but possibly illegal camping. Mr. Wilson then asked about the precedent related to the County request for funding for fighting the fire. Chief Donner responded that the total costs were still uncertain. No State or Federal aid would be provided. In the

past, the City and County typically fully cooperated but it was premature to discuss it. Council Member Morzel asked about the potential for flooding and mudflows. Chief Donner responded that the area would not be affected but the Fourmile area was undergoing a survey to examine the potential for impacts to the city.

Mayor Osborne commented that the fire season was getting longer globally and wanted to know if there was something the city could be doing with the fire master plan to protect vulnerable areas during fire season or look differently at the system.

Council Member Ageton noted the slurry bombing was critical and asked how that resource was brought in. Chief Donner indicated the planes were a federal asset. It was flown in as it wasn't available locally. The first slurry drop was typically paid for by the State. The State will also pay for a small amount of the hand crews. The County Sheriff could apply for a State mutual firefighting fund that counties pay into.

Council Member Karakehian suggested that money could be set aside for fire season to prepare for the future.

City Manager Brautigam noted that the Fire Master Plan was scheduled to come before Council in mid-2011.

3. **CONSENT AGENDA: - 7:10 p.m.**

Deputy City Clerk Susan Kohl noted for the record that a revised version of item 3C was provided to Council Members at the dais.

- A. **CONSIDERATION OF A MOTION TO ACCEPT THE OCTOBER 5, 2010 CITY COUNCIL MEETING MINUTES.**
- B. **CONSIDERATION OF A MOTION TO CALL A SPECIAL MEETING ON NOVEMBER 30, 2010 AT 6:30 P.M., IF NECESSARY, TO ADOPT THIRD READING OF THE 2011 BUDGET.**
- C. **CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE AUGUST 24, 2010 STUDY SESSION ON THE SOUTH OF DOWNTOWN AREA (SoDA), DOWNTOWN ZONE DISTRICTS, AND HEIGHT MODIFICATIONS CITYWIDE.**

Council Member Becker asked for an addition under item (f) "Other" on page 4 of the memo that indicated a desire to combine the SoDa two block study area with the proposed city two block area.

- D. **CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE SEPTEMBER 14, JOINT STUDY SESSION WITH THE BOULDER LIBRARY COMMISSION.**
- E. **CONSIDERATION OF A MOTION TO AMEND THE CRESTVIEW EAST**

**ANNEXATION AGREEMENT, #LUR2010-00035, FOR A WAIVER OF THE FULL CASH-IN-LIEU AMOUNT FOR AFFORDABLE HOUSING FOR 2131 UPLAND AVENUE. 2131 UPLAND AVENUE IS WITHIN BOTH THE RESIDENTIAL LOW-1 (RL-1) ZONE DISTRICT (NORTH HALF OF THE PROPERTY) AND THE RESIDENTIAL ESTATE (RE) (SOUTH HALF OF THE PROPERTY) ZONE DISTRICT.**

- F. SECOND READING AND CONSIDERATION OF EMERGENCY ORDINANCE NO. 7762 ADOPTING SUPPLEMENT NO. 106, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 7724, 7725, 7726, 7730, 7744, AND 7752 AND INCLUDES OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS TO THE BOULDER REVISED CODE, 1981.**
- G. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE PROPOSING AN AMENDMENT TO TITLE 9, "LAND USE CODE" B.R.C. 1981 RELATED TO SECTION 9-7-7, "BUILDING HEIGHT, APPURTENANCES," B.R.C. 1981.**

Deputy Mayor Wilson moved, seconded by Morzel to approve consent items 3A through 3G with item 3C amended to add Council Member Becker's comments to section (f). The motion carried unanimously 8:0.

Council Member Gray left the meeting before the vote.

**4. CALL- UP CHECK IN: - 7:17 p.m.**

No interest was expressed.

**ORDER OF BUSINESS**

**5. CONTINUED ITEM:**

**A. TWO ITEMS RELATED TO TREE PROTECTION: - 7:18 P.M.**

**\*\* THIS WAS A CONTINUATION OF THE ITEM PREVIOUSLY HELD ON SEPTEMBER 7, 2010. THE PUBLIC HEARING WAS HELD AT THAT TIME AND NO ADDITIONAL PUBLIC COMMENT WAS TAKEN AT THIS MEETING.\*\***

- 1. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7712 AMENDING TITLES 4 AND 6, B.R.C. 1981 TO ESTABLISH REQUIREMENTS FOR CERTIFIED ARBORIST LICENSES AND OTHER REQUIREMENTS RELATED TO THE PLANTING, CUTTING, REMOVING, OR APPLYING OF PESTICIDES TO ANY TREES; AND**

**2. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7713 AMENDING TITLE 8, B.R.C. 1981 TO CREATE AN AFFIRMATIVE OBLIGATION OF ADJACENT PROPERTY OWNERS TO MAINTAIN STREET TREES AND TITLE 9, B.R.C. 1981 TO ESTABLISH TREE PROTECTION REQUIREMENTS IN THE SITE REVIEW, SUBDIVISION, AND LANDSCAPING STANDARDS.**

Charles Ferro, Land Use Review Manager and Elizabeth Lokocz, Landscape Architect, provided the presentation on the item.

Council Member Cowles thought the one-year survival requirement was being removed from section 9-9-13 on page 13 “streetscape design standards” so there would be a long lasting requirement. The City Attorney clarified that page 24 was the new ordinance section.

Deputy Mayor Wilson suggested three simple word changes; on page 16, section 4-28-1, line 17, change the word “persons” to “professionals” and remove the word “plant.” In addition, in section 4-28-2, line 23, to remove the word “planting” in that first line.

Council Member Appelbaum suggested that the wording needed to be consistent throughout the ordinance and clarified that the ordinance was intended for consumer protection. He raised concern about the thin line between protecting consumers and requiring consumers to hire certified arborists. He didn’t want to see the public stop taking care of things because it would cost too much.

Council Member Ageton shared some of Council Member Appelbaum’s concerns. In attachment D on page 23, section 18, she asked what the protection plan referred to. City Attorney Tom Carr explained that it was an optional plan and was not required. The tree inventory and protection plan were referred to as separate pieces but the tree inventory would be used to mitigate impacts. Ms. Ageton suggested that Council could strike the protection plan.

Council Member Karakehian commented that the issue of pruning needed more attention, like the idea of adding the word professional. He did not like planting as part of the rules. On page 17, part C, he asked if the required naming on vehicles and equipment was also included in other licensing processes. Staff replied that this was easier on enforcement staff. In section 4-28-4 on page 17, the license was enough for whatever work was being done under Boulders requirements.

Mayor Osborne indicated she would support the ordinance along with some of the changes suggested.

Deputy Mayor Wilson moved, seconded by Osborne to adopt Ordinance Nos. 7712 and 7713 as stated in attachments C and D of the memo with three word changes; removing the word “plant” and changing the word “person” to the word



“professional” on page 16 in section 4-28-1 proposed earlier and the deletion of the words “and protection plan” on page 23 section (18).

Deputy Mayor Wilson offered a friendly amendment to vote separately on the two ordinances. The friendly amendment was accepted.

Council Member Appelbaum moved, seconded by Cowles to amend Ordinance No. 7712 to add two levels of licensing in the ordinance. The motion carried 6:2; Osborne and Wilson opposed, Gray absent.

Council Member Morzel moved, seconded by Appelbaum to continue the item to a future business meeting for third reading. The motion carried unanimously 8:0, Gray absent.

Vote was taken on the motion made by Wilson, seconded by Osborne to amend Ordinance No. 7713 to remove the words “and protection plan” on page 23, section (18) the motion carried unanimously 8:1, Gray absent.

6. **MATTERS FROM THE CITY MANAGER: - 8:00 p.m.**

A. **DIRECTION AND NEXT STEPS FOR THE SOUTH OF DOWNTOWN AREA (SODA), DOWNTOWN ZONE DISTRICTS, AND HEIGHT MODIFICATIONS CITYWIDE.**

Council Member Morzel asked whether the plan would include 9<sup>th</sup> street. Staff responded that it would and the matter would come back with options such as whether to consider it as an area plan vs. master plan.

Council Member Karakehian indicated there was a lot of angst in the downtown community over the 78 feet from centerline issue and potentially over-planning the area. It was hard to envision the plan. A conversation was needed about the different setback options. Staff indicated there would be a study session in 2011 and work plan items would be prioritized at the retreat.

Council Member Cowles encouraged people to keep an open mind about the possibilities of a boulevard concept. He asked if the requirement for private open space would be included in the concept. Staff responded that it would go on the list of possible code changes.

Council Member Ageton expressed that it was hard to grasp the focus so far in the process. She wanted to see the pieces/phases as opposed to a large proposal. She raised concern it would become too large. She didn't understand what the objective was yet. She also asked for information on whether there were any clear restrictions from CDOT about what could be done on Canyon and how should that be prioritized if it grew as a concern.

Mayor Osborne commented that a motion on next steps for short term items was a good idea. She was uncomfortable with the long term plan items and would like to discuss those as a larger part of the planning work plan. She also suggested looking at the South of Downtown Area to help encourage tourism dollars. She noted that CDOT wanted to get rid of highways and this was of great concern to cities. She noted that information about CDOT restrictions would be good

but frankly, CDOT probably wouldn't mind the city doing the road work as its own. She was more comfortable waiting until after the retreat to talk about long term items.

Council Member Becker agreed with Council Members Osborne and Ageton. She was comfortable with all of the short term items. She wanted to see a minimum setback from the centerline for Canyon, wanted the CDOT restriction information, and noted the cost concerns were a big issue for her. She asked what the source of funding would be. She would be more willing to do things on Canyon if there were a funding source.

Council Member Appelbaum suggested that some framework that covered the bases so that the plan didn't preclude any other ideas would be helpful. Pulling out the make or break issues would be useful.

Council Member Morzel agreed with much of what Council Member Appelbaum expressed. It was important to understand how the connections would work (alleys, open space etc...). She agreed it was important to keep an open mind. She was concerned about a minimum setback line and would rather know what was needed to accomplish the vision. She didn't want a piecemeal approach but rather preferred a higher level look.

**B. Update on Boulder's Energy Future - 9:05 p.m.**

Community Planning and Sustainability Director David Driskell indicated the draft Energy Baseline RFP would be e-mailed out to Council members the following day. He provided an update regarding three Boulder Matters sessions and invited Council Members to an upcoming "plancake" breakfast on Saturday at 10 a.m. at Foothills Elementary School and 3D Boulderama sessions the following week. He also noted there were four travel scholarships to the ICC Code convention and there was a successful vote to increase energy efficiency requirements to 30%. He noted that the clicker technology was really working in the sessions.

Jonathan Koehn then provided information on his recent trip to Dublin, Ireland for the European smart cities conference to represent the US and Boulder, particularly around Boulder's experience with the SmartGridCity project. He reported that this week there would be a stakeholder meeting with the Boulder Valley School District, CU and Boulder County. The purpose was to start identifying times and locations for ongoing discussions as the process moved forward. The discussion would include things like "what does a partnership really mean?" and "myth busting." The following week, staff scheduled a make up session for stakeholders or the public would be held to talk about what's been heard so far. That meeting would be at 10 a.m. on Friday morning at the 29<sup>th</sup> Street community room. Mr. Koehn would send information to Council Members. He then noted that Paul Fenn would be available on Tuesday and suggested Council extend the schedule of the energy roundtable to begin at 4:30. Paul Fenn would also share his expertise on Choice Aggregation at the West Senior Center from 7-9 p.m. Mr. Fenn would also be attending the Applied Solutions conference next Wednesday through Friday. Boulder agreed to host the third annual conference. Mr. Koehn provided a handout and offered to pre-register interested Council Members.

**7. MATTERS FROM THE CITY ATTORNEY: - 9:25 p.m.**

None.

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL:**

A. **POTENTIAL CALL-UPS:**

1. **SITE REVIEW FOR HEIGHT MODIFICATION #LUR2010-00042 FOR A SINGLE-FAMILY HOME LOCATED AT 1946 HARDCRABBLE DRIVE, TO MODIFY THE HEIGHT OF A PROPOSED ADDITION (364 SQUARE FEET) NOT TO EXCEED 44 FT. FROM THE MAXIMUM PERMITTED HEIGHT OF 35 FT WITHIN THE RESIDENTIAL LOW-2 (RL-2) ZONE DISTRICT. THE AREA OF THE SITE IS 4,967 SQUARE FEET. INFORMATION PACKET DATE: OCTOBER 27, 2010. LAST OPPORTUNITY FOR CALL-UP IS NOVEMBER 3, 2010. APPROVED BY THE PLANNING BOARD 5-0.**

No action was taken on this item.

9. **PUBLIC COMMENT ON MATTERS: - 9:25 p.m.**

None.


10. **FINAL DECISIONS ON MATTERS: - 9:25 p.m.**

None.

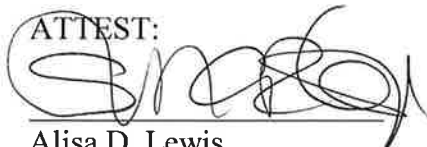
11. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 9:26 P.M.

APPROVED BY:

  
Susan Osborne,  
Mayor

ATTEST:

  
Alisa D. Lewis,  
City Clerk